

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
DIVISION OF ROCK HILL

EOS GmbH ELECTRO OPTICAL SYSTEMS;) Case No.
Plaintiff,)
v.) **COMPLAINT FOR PATENT**
MCP TOOLING TECHNOLOGIES, LTD. and MCP HEK TOOLING GmbH,) **INFRINGEMENT**
Defendants.)

) (Jury Trial Demanded)
)
)

COMPLAINT

Plaintiff EOS GmbH Electro Optical Systems, by and through its attorneys, complains and alleges against Defendants MCP Tooling Technologies, Ltd. and MCP HEK Tooling GmbH, as follows:

JURISDICTION AND VENUE

1. This is a civil action for patent infringement arising under the Patent Laws of the United States, and more specifically, under Title 35, United States Code § 1 *et seq.* This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338, and 35 U.S.C. § 281.

2. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b), (c) and (d), and 28 U.S.C. § 1400(b).

PARTIES

3. Plaintiff EOS GmbH Electro Optical Systems (“EOS”) is an entity organized and existing under the laws of Germany and having its principal place of business in Krailling/Munich, Germany.

4. EOS is advised and believes, and on that basis alleges, that defendant MCP Tooling Technologies, Ltd. is an entity organized and existing under the laws of the United Kingdom and having its principal place of business at Whitebridge Way, Whitebridge Park, Stone, Staffordshire ST15 8LQ, England. EOS is advised and believes, and on that basis alleges, that defendant MCP HEK Tooling GmbH is an entity organized and existing under the laws of Germany and having its principal place of business at Kaninchenborn 24-28, D-23560 Lübeck, Germany, and having a SLM Tech Center at Hauptstrasse 35, D-33178 Borch, Germany. The Defendants are collectively referred to hereinafter as “MCP.” EOS is advised and believes, and on that basis alleges, that MCP transacts business within the State of South Carolina and in this District, and has committed acts of patent infringement as hereinafter set forth within the State of South Carolina and in this District. In particular, EOS is advised and believes, and on that basis alleges, that MCP has committed acts of infringement by, among other things, offering for sale, selling, and importing into the United States (including South Carolina and in this District) systems that infringe the patent-in-suit identified below. This is a district in which MCP is subject to personal jurisdiction in this Court for the purpose of this case, and venue is proper.

INFRINGEMENT OF U.S. PATENT NO. 5,753,171

5. On May 19, 1998, United States Patent No. 5,753,171 ("the '171 patent"), entitled "Method And Apparatus For Producing A Three-Dimensional Object" was duly and legally issued by the United States Patent and Trademark Office. A copy of the cover page of the '171 patent is attached hereto as Exhibit A.

6. The '171 patent is owned by EOS, has been owned by EOS at all times relevant herein, and EOS possesses all rights thereunder. The '171 patent is considered valid, subsisting and enforceable against MCP.

7. 3D Systems, Corporation ("3D"), is a corporation organized and existing under the laws of the State of Delaware and having a place of business at 333 Three D Systems Circle, Rock Hill, South Carolina, 29730. According to a press release on 3D's website, 3D recently entered into "a private label arrangement with MCP Tooling Technologies," and as a result of this arrangement, "3D Systems plans for the immediate availability of the Sinterstation(R)Pro DM100 and DM250 SLM Systems" in the United States. These systems are used to create three-dimensional objects, and 3D refers to them generally as direct metal manufacturing systems that build fully dense parts for end products, prototyping and tooling.

8. Pursuant to the "private label arrangement" with 3D mentioned above, MCP has offered for sale, and on information and belief, imports and sells into the United States systems that are used to create three-dimensional objects and, in particular, metal parts using Selective Laser Melting (SLM) technology wherein a laser converts metal powder into a solid, three-dimensional part in an additive, layer-

by-layer process. MCP identifies these systems on its own website as the MCP Realizer^{SLM}.

9. MCP has directly infringed, contributorily infringed, actively induced infringement, and is infringing, within this district and elsewhere within the United States, one or more claims of the '171 patent in violation of 35 U.S.C. § 271.

10. MCP has had actual notice of the existence of the '171 patent, and despite such notice, has continued to engage in acts of infringement of this patent. MCP's continued acts of infringement has been, and will continue to be, deliberate and willful.

11. MCP's infringing activities have damaged and continue to damage EOS. EOS's damage is irreparable, and EOS has no adequate remedy at law. Upon information and belief, MCP will continue to infringe upon the '171 patent causing irreparable harm to EOS unless enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, EOS prays for relief against MCP as follows:

1. That U.S. Patent No. 5,753,171 be adjudged infringed by MCP, and that the infringement be held to be willful;
2. That EOS be awarded compensatory damages for past infringement by MCP in an amount no less than a reasonable royalty, in a sum to be determined at trial, and that said damages be trebled in view of the willful and deliberate nature of the infringement;

3. That MCP, its officers, directors, agents, servants, employees and attorneys, and other persons in active concert or participation with MCP, be permanently enjoined from further infringement of the '171 patent;

4. That MCP be ordered to deliver to EOS for destruction all infringing products and systems in its possession;

5. That this case be declared an exceptional case under 35 U.S.C. § 285, and that EOS be awarded its attorney fees incurred in this action;

6. For an award of EOS's costs of this action, interest on the award and other charges to the maximum extent permitted; and

7. For such other further relief as the Court deems just and proper under the circumstances.

JURY DEMANDED

EOS hereby demands trial by jury for all issues so triable.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: s/CHERIE W. BLACKBURN

Dated: May 8, 2008

Cherie W. Blackburn

Federal Bar No. 1575

E-Mail Address: cherie.blackburn@nelsonmullins.com

151 Meeting Street / Sixth Floor

Post Office Box 1806 (29402)

Charleston, SC 29401-2239

(843) 853-5200

Attorneys for Plaintiff EOS GmbH Electro Optical Systems

and

Michael H. Baniak

Michael D. Gannon

Paul A. Kafadar

McDonnell Boehnen Hulbert & Berghoff LLP

300 South Wacker Drive, Suite 3100

Chicago, Illinois 60606

(312) 913-0001 Telephone

(312) 913-0002 Facsimile

Attorneys for Plaintiff EOS GmbH
Electro Optical Systems